

§ 56.5 Destruction and disposal of poultry and cleaning and disinfection (virus elimination) of premises, conveyances, and materials.

(a) *Destruction of poultry.* Poultry that are infected with or exposed to H5/H7 LPAI may be required to be destroyed at the discretion of the Cooperating State Agency and APHIS and in accordance with the initial State response and containment plan described in § 56.10. The Cooperating State Agency and APHIS will select a method to use for the destruction of such poultry based on the following factors:

- (1) The species, size, and number of the poultry to be destroyed;
- (2) The environment in which the poultry are maintained;
- (3) The risk to human health or safety of the method used;
- (4) Whether the method requires specialized equipment or training;
- (5) The risk that the method poses of spreading the H5/H7 LPAI virus;
- (6) Any hazard the method could pose to the environment;
- (7) The degree of bird control and restraint required to administer the destruction method;
- (8) The speed with which destruction must be conducted; and
- (9) Consistency of the method with humane euthanasia guidelines.

(b) *Disposal of poultry.* Carcasses of poultry that have died from H5/H7 LPAI infection or poultry that have been humanely slaughtered to fulfill depopulation requirements must be disposed of promptly and efficiently in accordance with the initial State response and containment plan described in § 56.10 to prevent the spread of H5/H7 LPAI infection. Disposal methods will be selected by the Cooperating State Agency and APHIS and may include one or more of the following: Burial, incineration, composting, or rendering. Regardless of the method used, strict biosecurity procedures must be implemented and enforced for all personnel and vehicular movement into and out of the area in accordance with the initial State response and containment plan to prevent dissemination of the H5/H7 LPAI virus.

(c) *Controlled marketing.* (1) At the discretion of the Cooperating State Agency and APHIS, poultry that has

been infected with or exposed to H5/H7 LPAI may be allowed to move for controlled marketing and maintain their current National Poultry Improvement Plan (NPIP) certifications in accordance with the initial State response and containment plan described in § 56.10 and in accordance with the following requirements:

(i) Poultry infected with or exposed to H5/H7 LPAI must not be transported to a market for controlled marketing until approved by the Cooperating State Agency in accordance with the initial State response and containment plan described in § 56.10.

(ii) Within 7 days prior to slaughter, each flock to be moved for controlled marketing must be tested for H5/H7 LPAI using a test approved by the Cooperating State Agency and found to be free of the virus.

(iii) Routes to slaughter must avoid other commercial poultry operations whenever possible. All load-out equipment, trailers, and trucks used on premises that have housed poultry that were infected with or exposed to H5/H7 LPAI must be cleaned and disinfected and not enter other poultry premises or facilities for 48 hours after removing such poultry from their premises.

(iv) Flocks moved for controlled marketing must be the last poultry marketed during the week they are marketed.

(2) Poultry moved for controlled marketing will not be eligible for indemnity under § 56.3. However, any costs related to cleaning and disinfection (virus elimination) of premises, conveyances, and materials that came into contact with poultry that are moved for controlled marketing will be eligible for compensation under § 56.3.

(d) *Cleaning and disinfection (virus elimination) of premises, conveyances, and materials.* Premises, conveyances, and materials that came into contact with poultry infected with or exposed to H5/H7 LPAI must be cleaned and disinfected; *Provided*, that materials for which the cost of cleaning and disinfection would exceed the value of the materials or for which cleaning and disinfection would be impracticable for any reason may be destroyed and disposed. Cleaning and disinfection must be performed in accordance with the

initial State response and containment plan described in § 56.10, which must be approved by APHIS. Cleaning and disinfection must also be performed in accordance with any applicable State and local environmental regulations.

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010; 79 FR 38753, July 9, 2014; 85 FR 62563, Oct. 5, 2020]

§ 56.6 Presentation of claims for indemnity and/or compensation.

Claims for the following must be documented on a form furnished by APHIS and presented to an APHIS employee or the State representative authorized to accept the claims:

(a) Indemnity for the value of poultry to be destroyed due to infection with or exposure to H5/H7 LPAI;

(b) Indemnity for the value of eggs to be destroyed due to infection or exposure to H5/H7 LPAI; and

(c) Compensation for the cost of cleaning and disinfection (virus elimination) of premises, conveyances, and materials that came into contact with poultry infected with or exposed to H5/H7 LPAI, or, in the case of materials, if the cost of cleaning and disinfection (virus elimination) would exceed the value of the materials or cleaning and disinfection (virus elimination) would be impracticable for any reason, the cost of destruction and disposal for the materials.

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010; 85 FR 62564, Oct. 5, 2020]

§ 56.7 Mortgage against poultry or eggs.

When poultry or eggs have been destroyed under this part, any claim for indemnity must be presented on forms furnished by APHIS. The owner of the poultry or eggs must certify on the forms that the poultry or eggs covered are, or are not, subject to any mortgage as defined in this part. If the owner states there is a mortgage, the owner and each person holding a mortgage on the poultry or eggs must sign the APHIS-furnished form, consenting

to the payment of indemnity to the person specified on the form.

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010]

§ 56.8 Conditions for payment.

(a) When poultry or eggs have been destroyed pursuant to this part, the Administrator shall pay claims to any party with which the owner of the poultry or eggs has entered into a contract for the growing or care of the poultry or eggs. The indemnity the Administrator shall pay to such a party or parties shall be determined as follows:

(1) Divide the value of the contract the owner of the poultry or eggs entered into with another party for the growing and care of the poultry or eggs in dollars by the duration of the contract as it was signed prior to the H5/H7 LPAI outbreak in days;

(2) Multiply this figure by the time in days between the date the other party began to provide services relating to the destroyed poultry or eggs under the contract and the date the poultry or eggs were destroyed due to H5/H7 LPAI.

(b)(1) If indemnity for the destroyed poultry or eggs is being provided for 100 percent of eligible costs under § 56.3(b), the Administrator may pay contractors eligible for indemnity under this section 100 percent of the amount determined in paragraph (a) of this section.

(2) If indemnity for the destroyed poultry or eggs is being provided for 25 percent of eligible costs under § 56.3(b), the Administrator may pay contractors eligible for indemnity under this section 25 percent of the amount determined in paragraph (a) of this section.

(c) If a contractor receiving indemnity under this section has received any payment under his or her contract from the owner of the poultry or eggs at the time the poultry or eggs are destroyed, the amount of indemnity for which the contract grower is eligible will be reduced by the amount of the payment the contract grower has already received.

(d) If indemnity is paid to a contractor under this section, the owner of the poultry or eggs will be eligible to